



29 NOV 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Cary S. Kappel
Davidson, Davidson & Kappel, LLC
485 Seventh Avenue, 14th Floor
New York, NY 10018

In re Application of :
REIN, et al. :
U.S. Application No.: 09/980,727 : COMMUNICATION
PCT No.: PCT/EP00/03612 :
Int. Filing Date: 20 April 2000 :
Priority Date: 22 April 1999 :
Attorney's Docket No.: 228.1010 :
For: METHOD FOR PRODUCING A WATER- :
INSOLUBLE AMORPHOUS OR PARTIALLY :
AMORPHOUS CONTROLLED RELEASE :
MATRIX :

This communication is in response to applicant's "Communication re Resubmission of Documents Returned to Sender" filed 08 July 2002 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 20 April 2000, applicant filed international application PCT/EP00/03612, which claimed priority of an earlier application filed 22 April 1999. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 02 November 2000. A Demand for international preliminary examination, in which the United States was elected, was filed on 27 September 2000, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 22 October 2001.

On 17 October 2001, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a translation of the international application into English; a copy of the International Preliminary Examination Report and a First Preliminary Amendment. An executed oath or declaration was not filed.

On 29 January 2002, applicant was mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371" (Form PCT/DO/EO/905) informing applicant of the need to provide an oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the international application number and international filing date. Applicant was also advised of the need to provide payment of the \$130.00 surcharge for

providing an oath or declaration later than thirty months from the priority date. Applicant was given two months to respond and advised that this time period could be extended with a proper petition and payment of fees.

On 08 July 2002, applicant filed the papers considered herein, including: a copy of the Form PCT/DO/EO/905; a response to the Form PCT/DO/EO/905; a copy of an executed Declaration/Power of Attorney; a check in the amount of \$130.00; a petition for a two-month extension of time and a check in the amount of \$400.00 as payment of the two-month extension of time fee.

COMMUNICATION

Applicant's current communication indicates that the papers were originally mailed 17 May 2002 and subsequently returned to counsel's law firm on 17 June 2002. Applicant urges that the papers be accepted as having been filed 17 May 2002.

An examination of the envelope used in the original mailing shows a United States Postal Service (USPS) stamp of "May 17, 02" which corresponds to applicant's certificate of mailing on the papers. However, the address listed on the mailing label is "Assistant Commissioner for Patents, Washington, DC 20232." The correct zip code for the Assistant Commissioner for Patents, Box PCT is 20231. Pursuant to 37 CFR 1.8 (1)(i)(A), applicant is not afforded the benefit of a certificate of mailing as the address is incorrect. An examination of USPS records shows that zip code 20232 is the mailing code for the "Resolution Trust Oversight Board" which, as it is an entity created by Congress, may explain why the mail was irradiated prior to examination of the mailing label.

As applicant has authorized the charging of fees to Deposit Account No.: 50-0552, the petition for a two-month extension of time will be considered a petition for a four-month extension of time with the difference charged to Deposit Account No.: 50-0552. With the additional fee, the response is considered timely filed. Further, with the filing of the executed Declaration/Power of Attorney, all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States have been satisfied.

CONCLUSION

As authorized, the \$1040.00 difference in extension fees from two months to four months will be charged to Deposit Account No.: 50-0552.

The application has an international filing date of **20 April 2000** under 35 U.S.C. 363 and a date of **08 July 2002** under 35 U.S.C. 371(c).

This application is being returned to the United States Designated/Elected Office

(DO/EO/US) for treatment in accordance with this decision, that is, for mailing of a filing receipt and a NOTIFICATION OF ACCEPTANCE OF APPLICATION (Form PCT/DO/EO/903) which identifies a date of **08 July 2002** under 35 U.S.C. 371(c).



Richard Cole
Legal Examiner
PCT Legal Office



Derek A. Putonen
Petitions Attorney
PCT Legal Office
Tel: (703) 305-0130
Fax: (703) 308-6459